

Appl. No. 09/767,379

Amdt. Dated May 6, 2004

Reply to Office Action of February 6, 2004

REMARKS

Reconsideration of the application is requested.

Applicants acknowledge the Examiner's confirmation (item 12.a.1 of the Office Action Summary) of receipt of applicants' certified copy of the priority document for the German Patent Application 198 32 850.8, filed July 21, 1998 supporting the claim for priority under 35 U.S.C. § 119. However, applicants respectfully request the Examiner's acknowledgment of the applicants' claim for domestic priority under 35 U.S.C. § 120 (item 14 of the Office Action Summary) for the International Patent Application PCT/DE99/01962, filed July 1, 1999 as a specific reference was included in the first sentence of the specification.

Claims 1-5 are in the application. Claims 1-5 were rejected in the above-identified Office Action. Claims 1, 2, and 4 have been amended.

In "Specification" item 5 on page 2 of the above-identified Office Action, the Examiner objected to the abstract of the disclosure. The Examiner's suggested corrections have been made so the abstract is only 137 words. To comply with 37 CFR § 1.72, a clean version of the replacement abstract is enclosed on a separate sheet with this amendment.

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In "Claim Objections" on page 2 of the above-identified Office Action, the Examiner objected to the claims 1 and 4, lines 6 and 23 respectively, because of two (2) informalities. The Examiner's suggested corrections have been made.

In "Claim Rejections - 35 USC § 103" item 3 on page 3 of the above-identified Office Action, claims 1-5 have been rejected as being indefinite under 35 U.S.C. § 112, first paragraph.

More specifically, the Examiner states that claims 1 and 4 respectively recite the limitation of "correlating the received spread sequence" when the specification and FIG. 2 disclose storing the received spread sequence prior to any further processing. As indicated above, the Examiner's suggested corrections have been made to the claims to clarify that the "stored received spread sequence" is correlated.

In claim 2, the amended features are described on page 14, lines 15-20 and on page 15 lines 23 to 25. Specifically, the shifting of bits to the least significant bit of a succeeding section and that the bit adder 29 calculates the correlation result obtained per section correlation step and the accumulator 28 sums these partial correlation results over  $k$

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section correlation steps to obtain a count result. Because the shifting and replacement steps are repeated  $m-1$  times,  $m-1$  additional count results are obtained. The maximum search is conducted over all (i.e.  $m$ ) count results.

In "Claim Rejections - 35 USC § 112" item 4 on page 4 of the above-identified Office Action, claims 1-5 have been rejected as being indefinite under 35 U.S.C. § 112, second paragraph.

More specifically, the Examiner states that claims 1 and 4 recite the limitation of "processing the stored, received spread sequence" and considers this language to be unclear and indefinite. As previously indicated, the claims have been amended to clarify that the received spread sequence is stored and then split into sections that are correlated with corresponding sections of the locally generated spread sequence.

Support for these changes may be found on pages 14 and 15 of the specification of the instant application.

It is accordingly believed that the specification and the claims meet the requirements of 35 U.S.C. § 112, first and second paragraphs. The above-noted changes to the claims are provided solely for clarification or cosmetic reasons. The

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changes are neither provided for overcoming the prior art nor do they narrow the scope of the claim for any reason related to the statutory requirements for a patent.

In item 5 on page 4 the Examiner lists various references that are considered pertinent to the instant application. Applicants respectfully submit that United States Patent No. 6,614,835 to *Gunzelmann, et al.* (hereinafter '835) is not available as a prior art reference against the instant application. The instant application and the '853 list **the same inventors** and appear to have been filed **on the same day**.

Moreover, the instant application has an earlier domestic priority date than '853, because the international application associated with '853 was filed before November 29, 2000. As such, the instant application has a domestic priority of **July 1, 1999** under 35 U.S.C. § 120 for the International Patent Application PCT/DE99/01962, filed **July 1, 1999**. Moreover, because the instant application is a continuation of the German application 198 32 850.8, filed **July 21, 1998**, the instant application has an even earlier domestic priority under 35 U.S.C. § 119.

The Applicant has briefly reviewed the other references and it is accordingly believed to be clear that none of the

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references, whether taken alone or in any combination, either show or suggest the features of amended claim 1 or claim 4. Claims 1 and 4 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1 or claim 4.

In view of the foregoing, reconsideration and allowance of claims 1-5 are solicited. In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

If an extension of time is required, petition for extension is herewith made. Any extension fee associated therewith should be charged to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099. Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,

  
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